

STATE OF MICHIGAN
COURT OF APPEALS

LYONEL LAGRONE and GLORIA LAGRONE,

Plaintiffs-Appellees,

v

METROPOLITAN HOSPITAL and MICHAEL
MENOLASIONO, D.O.,

Defendants-Appellants.

UNPUBLISHED

February 2, 2001

No. 221669

Kent Circuit Court

LC No. 99-002227-NH

Before: Collins, P.J., and Doctoroff and White, JJ.

MEMORANDUM.

Defendants appeal by leave granted from the trial court order denying their motion for summary disposition, which had been brought pursuant to MCR 2.116(C)(7) on the basis that plaintiffs' medical malpractice claim was time-barred under the applicable statute of limitations. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The Michigan Supreme Court's recent decision in *Omelenchuk v City of Warren*, 461 Mich 567; 609 NW2d 177 (2000), is dispositive of this issue. In an unanimous opinion per curiam, the *Omelenchuk* Court held that, when the interval during which a plaintiff cannot sue pursuant to the notice statute expires after the limitations period, that period is tolled for the 182-day notice period, even where the no-suit period has been reduced to 154 days as a result of the defendant's failure to respond. *Id.* at 574-575. The Court reasoned that "[t]his holding is faithful to the nomenclature used by the Legislature: The Legislature chose to link the tolling period to the 'applicable notice period,' which is a set period defined in the statute, rather than to the 'no-suit' period, which may vary with a defendant's action or inaction." *Id.* at 575.

Here, in light of *Omelenchuk*, plaintiffs' complaint was timely filed. Accordingly, defendants were properly denied summary disposition under MCR 2.116(C)(7).

Affirmed.

/s/ Jeffrey G. Collins

/s/ Martin M. Doctoroff

/s/ Helene N. White